

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**  
**ASSESSMENT APPEALS COMMISSION**

Appeal of:	PICTSWEET COMPANY (f/k/a United Foods)	)	
	Listed parcels, attached	)	Crockett
	Commercial Property	)	County
	Tax years 1998-2004	)	

**FINAL DECISION AND ORDER**

**Statement of the case**

The Pictsweet Company<sup>1</sup> ("Pictsweet") has appealed the initial decision and order of the administrative judge, who recommended the subject property be assessed as follows:

Parcel	Year	Land	Improvement	Total value	Assessment
9, 10	1998-2000	\$220,000	\$13,776,200	\$13,996,200	\$5,998,400
4	1998-2000	\$68,800	\$1,063,200	\$1,132,000	\$452,800
1	1998-2000	\$12,800	\$37,900	\$50,700	\$20,280
14	1998-2000	\$73,900	\$535,000	\$608,900	\$243,560
46.02	1998-2000	\$94,000	\$190,000	\$284,000	\$113,600
9P-001	1998	n/a	n/a	\$6,770,000	\$2,031,000
9P-001	1999	n/a	n/a	\$8,430,000	\$2,529,000
9P-001	2000	n/a	n/a	\$9,607,350	\$2,882,205
42	1999-2000	\$166,100	\$299,100	\$465,200	\$2,882,205

The appeal was heard in Nashville on October 31-November 3, 2005, before Commission members Stokes (presiding), Gilliam and Wade.<sup>2</sup> The taxpayer was represented by its attorney, Mr. Brad MacLean, and the assessor Mr. Gary Reasons was represented by Mr. Robert Lee, General Counsel to the state Division of Property Assessments which assisted the county in the county-wide reappraisal that included the subject property.

**Findings of fact and conclusions of law**

The subject property is a frozen vegetable processing plant in Bells comprising several buildings totaling over 470,000 square feet, along with associated machinery and equipment. The plant as originally constructed from 1945-1950 processed locally grown strawberries and later okra, but the company has expanded the plant and product line over the years and now operates plants in other states as well. Expansion or

<sup>1</sup> The company was organized as a publicly held corporation (United Foods, Inc.) when the appeal was originally filed. It has since reorganized as a privately owned company.

<sup>2</sup> Mr. Gilliam sat as an alternate for Commission member White, and Mr. Wade sat as an alternate for Mr. Brooks, who were unavailable for the hearings. Tenn. Code Ann. §4-5-302.



renovation of the facilities has continued in recent years, the latest a freezer storage rehabilitation in the year this appeal was filed (1998). In the late 1980's the company began its own farming operations in the area and now owns or leases over ten thousand acres in West Tennessee.

#### Economic obsolescence

The principal issue before the Commission is whether the property value is affected by economic obsolescence due to conditions in the frozen vegetable processing industry. Although the assessor insisted no adjustment for this form of obsolescence was appropriate, the assessor offered no proof to counter testimony by company officials and appraisers that the domestic industry suffered from global competition and a steady decline in the number of retail grocers buying its products due to consolidation among retail grocers and the entry of mass retailers such as Walmart. These factors have combined, according to the testimony offered by Pictsweet, to result in excess capacity in the frozen vegetable processing industry, with a consequent effect on the price a hypothetical willing and informed buyer would pay for Pictsweet's Crockett County facilities. We conclude the taxpayer has demonstrated its property is presently overvalued for property tax purposes due to the failure of the assessor to adequately account for economic conditions in the industry to which the subject property is adapted.

Although we accept the premise that economic obsolescence has affected the value of the subject properties, we decline to adopt the value asserted by Pictsweet at the hearing before the Commission because the evidence does not support the extent of value reductions attributed by its appraiser to economic and functional obsolescence.

This appeal has afforded the parties two separate opportunities to present evidence, the first a seven day hearing before an administrative judge sitting alone in November of 2000 and May of 2001, the second a four day hearing before the Commission in October-November 2005. Before the administrative judge sitting alone, Pictsweet offered the testimony of American Appraisal Associates who estimated economic obsolescence at 30% by comparing the selling and asking prices of nine sales of food processing/refrigerated warehousing facilities occurring nationwide from December of 1995 to July 1998. These sales exhibited a "predominant" range of indicated economic obsolescence of 20-35%. Before the Commission, a second appraiser (Tapanen Group, Inc.) estimated economic obsolescence at 70% by comparing selling prices of eleven different properties to the appraiser's estimate of depreciated replacement cost new (less depreciation *other than* economic obsolescence).



Use of comparable sales to estimate economic obsolescence is an accepted method, but it requires that the comparable sales be valid indicators of fair market value. The Commission finds that many of the sale properties cited by Pictsweet's second appraiser (Tapanen Group) were not truly comparable to Pictsweet's Crockett County plant. Selling prices for the comparables required sizable adjustments by the appraiser, ranging from 19%-70%, and the range of indicated obsolescence was also considerable, from 42%-88%. The sale properties are located across the United States, mostly in the upper Midwest and Pacific Northwest, but none shared the advantages of Pictsweet's Crockett County facilities in their proximity both to retail markets and reliable sources of raw vegetable inputs. Pictsweet has over 10,000 acres in production in the area of its Crockett County plant, providing a reliable source of raw vegetable product and easing the company's reliance on sources that are less certain and subject to greater cost fluctuations.<sup>3</sup> The Crockett County plant has other cost advantages, notably utilities and transportation, that most of the comparables do not enjoy. Finally, many of the sales were from liquidation or bankruptcy by owners who have not adapted to changing conditions in the industry, while Pictsweet's Crockett County facilities have consistently operated at a profit.

We find that some adjustment for economic obsolescence is appropriate in view of the industry factors cited by Pictsweet's appraisers, but at 40%, consistent with the lower rather than the higher end of the range identified by appraiser Tapanen (42% to 88%).

For tax year 1998, Mr. Tapanen estimated value by the cost approach by first determining replacement cost new (RCN) from the nationally recognized Marshall Valuation Service and then deducting physical depreciation (PD), and Mr. Tapanen's estimate to this point does not differ appreciably from that of the assessor's witness, Mr. Dean Lewis. From RCNLPD of \$19,730,000, Mr. Tapanen deducted \$1,547,000 for functional obsolescence and \$12,743,000 for economic obsolescence (70%). We find no basis for functional obsolescence beyond what is accounted for in the estimate of replacement cost new (the company's first appraiser also found no functional obsolescence). Adjusting economic obsolescence to 40% (\$7,263,000) leaves a value by the cost approach for tax year 1998 of \$12,467,000 excluding land. The parties substantially agree on the land value of \$433,000, so the indicated value for all the real property at issue (tax year 1998) would be \$12,900,000.

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<sup>3</sup> Although the appraiser characterized local growing conditions as less favorable than others, company officials acknowledged that Pictsweet's farming operations in the area were essential to the viability of the processing plant.



With regard to the tangible personal property, Tapanen Group derived an economic obsolescence factor of about 14% using the same sales included in its real property analysis. Proportionately reducing this factor in the same manner as the real property, yields 8% economic obsolescence for the tangible personal property and a value for tax year 1998 by the cost approach, after all forms of depreciation, of approximately \$8 million.

#### Other approaches to value

Tapanen Group performed several alternate approaches to valuing the Crockett County facilities, although the clear focus of the appraiser was upon the estimate of economic obsolescence in the cost approach. Among the alternate approaches, Tapanen compiled a sales comparison approach that included a separate estimate of value by market extraction. Not surprisingly, Tapanen used the same sales from which he derived economic obsolescence in the cost approach, and for the reasons discussed above we find these sales are not sufficiently comparable to the subject property to warrant reliance on the sales comparison approach.

Mr. Tapanen also estimated value by the appraisal approach known as income capitalization that estimated a value for all the assets of the company and then attempted to allocate a correct proportion of that value to the real and tangible personal property in Crockett County. He arrived at a business value of about \$36 million (1998) for the *company* and then deducted \$21 million for working capital and \$2.3 million for the value of the Pictsweet brand, allocating 60% of the remainder to the Tennessee plant.<sup>4</sup> Other appraisers testifying in this matter declined to use the income approach because processing plants like the subject are not typically leased and it is difficult to segregate income from the property from income to the business.<sup>5</sup>

The Commission finds that considering the difficulties inherent in this instance with value methods other than the cost approach, and considering that the competing appraisers most often found common ground in the cost approach, we will rely solely on the cost approach in determining the value of this plant.

#### Other issues

Pictsweet maintains a grain bin complex to store product in support of its processing operations, and the administrative judge ruled that the grain bins were indeed part of the commercial processing operations rather than an independent component of Pictsweet's production (agricultural) operations. This holding was

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<sup>4</sup> Forty percent was allocated to the two other plants Pictsweet owned in 1998, in California and Utah. The Delaware plant was acquired later.

<sup>5</sup> Pictsweet's first appraiser declined to calculate an income approach.



consistent with the original determination of the assessor and Pictsweet appealed on this issue to the Commission. The judge also determined that the bins, by virtue of their relative ease of dismantling, were tangible personal property, as contended by Pictsweet, rather than real property as originally assessed. In concentrating their efforts on the valuation issues, the parties offered little argument and no additional proof on these classification questions and the Commission finds the initial decision and order should simply be affirmed on both points.

#### ORDER

It is therefore ORDERED, that the initial decision and order of the administrative judge is affirmed on the issues of classification, and modified on the issues of valuation, with the values and assessments of the subject properties determined as follows:

Parcel	Year	Land	Improvement	Total value	Assessment
9, 10	1998	\$209,600	\$10,181,800	\$10,391,400	\$4,156,560
9P-001	1998	n/a	n/a	\$8,129,000	\$2,439,000
9, 10	1999	\$209,600	\$10,791,400	\$11,001,000	\$4,400,400
9P-001	1999	n/a	n/a	\$9,579,000	\$2,874,000
9, 10	2000	\$209,600	\$11,001,400	\$11,211,000	\$4,484,400
9P-001	2000	n/a	n/a	\$11,184,000	\$3,355,000
9, 10	2001	\$209,600	\$10,690,800	\$10,900,400	\$4,360,160
9P-001	2001	n/a	n/a	\$9,873,000	\$2,962,000
9, 10	2002	\$209,600	\$10,181,800	\$10,391,400	\$4,156,560
9P-001	2002	n/a	n/a	\$12,110,000	\$3,633,000
9, 10	2003	\$209,600	\$10,099,800	\$10,309,400	\$4,123,760
9P-001	2003	n/a	n/a	\$11,819,000	\$3,546,000
4	1998-2003	\$68,800	\$1,063,200	\$1,132,000	\$452,800
1	1998-2003	\$10,300	\$37,900	\$50,700	\$20,280
14	1998-2003	\$50,400	\$535,000	\$608,900	\$243,560
46.02	1998-2003	\$94,000	\$190,000	\$284,000	\$113,600
42	1999-2003	\$166,100	\$299,100	\$465,200	\$2,882,205

This order is subject to:

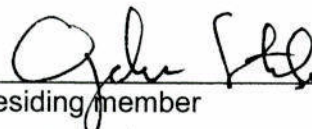
1. Reconsideration by the Commission, in the Commission's discretion.

Reconsideration must be requested in writing, stating specific grounds for relief and the request must be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.

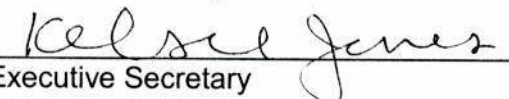
2. Review by the State Board of Equalization, in the Board's discretion. This review must be requested in writing, state specific grounds for relief, and be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.
3. Review by the Chancery Court of Davidson County or other venue as provided by law. A petition must be filed within sixty (60) days from the date of the official assessment certificate which will be issued when this matter has become final.

Requests for stay of effectiveness will not be accepted.

DATED: Feb. 7, 2006

  
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Presiding member

ATTEST:

  
\_\_\_\_\_  
Executive Secretary

cc: Mr. Brad MacLean, Esq.  
Mr. Gary Reasons, Assessor  
Mr. Robert Lee, Esq.